

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

INSITUFORM TECHNOLOGIES, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 04 10487 GAO
	)	
AMERICAN HOME ASSURANCE COMPANY,	)	
	)	
Defendant.	)	

**INSITUFORM'S MOTION FOR LEAVE TO SUPPLEMENT THE RECORD  
IN SUPPORT OF ITS CROSS-MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Insituform Technologies, Inc. ("Insituform"), by its attorneys, hereby moves for leave to supplement the record in support of its Cross-Motion for Summary Judgment. The supplemental memorandum in further support of its Cross-Motion and the Affidavit of Charles L. Philbrick are attached as Exhibits A and B to this Motion. In support of this Motion, Insituform states as follows:

1. In August and September of 2006, the parties filed cross-motions for summary judgment, which were fully briefed. The Court heard oral argument on November 20, 2006. At the time of oral argument discovery was closed, but three depositions that had been timely noticed remained to be taken: Insituform's director of finance, Larry Mangels; Insituform's damages expert, Chris Campos; and Liberty Mutual's claim investigation expert, Lee Steiner.
2. Subsequent oral argument, American Home took the deposition of Insituform's Director of Finance for North America, Larry Mangels. On January 8, 2007, American Home sought leave to supplement the record in connection with American Home's opposition to Insituform's Cross-Motion for Summary Judgment by offering certain testimony from Mr. Mangels. The Court has not ruled on American Home's motion to supplement the record.

3. On May 7, 2007, American Home took the deposition of Insituform's loss valuation and damages expert, Chris Campos. In light of the testimony offered by Mr. Campos, Insituform seeks to supplement the summary judgment record with excerpts from Campos deposition that put to rest all questions American Home attempted to manufacture with the Mangels' deposition.

4. The proffered testimony relates to Mr. Campos' quantification of damages, and in particular, to his quantification of fixed costs attributable to the "equipment burden" and the "payroll burden" at issue here.

5. It is in the interest of justice to permit Insituform to file these supplemental materials, and the filing thereof will neither prejudice Defendant nor delay resolution of the pending motions. To the contrary, it will make resolution of Insituform's Cross-Motion for Summary Judgment easier for the Court.

6. The last remaining deposition, of third party witness Lee Steiner, took place on June 26, 2007. Now all discovery is completed and the parties await cross motions for summary judgment.

WHEREFORE, Insituform requests that its Motion For Leave To Supplement The Record In Support of Its Cross Motion For Summary Judgment be granted.

INSITUFORM TECHNOLOGIES, INC.

By: /s/ Charles L. Philbrick

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**LOCAL RULE 7.1(A)(2) CERTIFICATION**

Pursuant to Local Rule 7.1(A)(2), I hereby certify that I have conferred with the Defendant's counsel regarding this motion, on July 5, 2007, in an effort to resolve or narrow the issue presented by this motion.

By: /s/ Charles L. Philbrick

Charles L. Philbrick  
Holland & Knight LLP

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the following document was served upon the attorney of record for the Defendant by virtue of electronically filing this document with the Court on the 6<sup>th</sup> day of July, 2007.

**NSITUFORM'S MOTION FOR LEAVE TO SUPPLEMENT THE RECORD  
IN SUPPORT OF ITS CROSS-MOTION FOR SUMMARY JUDGMENT**

By: /s/ Charles L. Philbrick

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